

1 BEFORE THE STATE BOARD OF TAX APPEALS
2 STATE OF ARIZONA
3 100 North 15th Avenue - Suite 140
Phoenix, Arizona 85007
602.364.1102

4 PACIFIC INDUSTRIAL PIPELINE,)

) Docket No. 1866-01-S

5 Appellant,)

6 vs.)

7 ARIZONA DEPARTMENT OF REVENUE,)

) NOTICE OF DECISION:
) FINDINGS OF FACT AND
) CONCLUSIONS OF LAW

8 Appellee.)
9)
_____)

10 The State Board of Tax Appeals, having considered all evidence and arguments presented, and
11 having taken the matter under advisement, finds and concludes as follows:

12 FINDINGS OF FACT

13 Pacific Industrial Pipeline ("Appellant") installs pipeline throughout Arizona. Within the period
14 March 1, 1994 through April 30, 1998 ("Audit Period"), Appellant contracted with Black Mountain Gas
15 Company ("Black Mountain") and Citizens Utilities ("Citizens"). In turn, Black Mountain entered into a
16 series of contracts with residential developers and Citizens entered into a series of contracts with
17 homeowners or homebuilders.

18 The Arizona Department of Revenue (the "Department") audited Appellant and assessed
19 transaction privilege tax under the prime contracting classification, a penalty for failure to timely pay the
20 tax due and interest for the Audit Period.¹ Appellant protested the assessment to the Office of
21 Administrative Hearings("OAH"), which upheld the assessment. Appellant then protested to the Director
22 of the Department, who affirmed the decision issued by OAH. Appellant now timely appeals to this
23 Board.
24 _____

25 ¹ The Department originally assessed tax against Appellant on behalf of a number of cities. Appellant appeals only the State transaction privilege tax involved.

1 acknowledged that it had conceded a portion of the assessment, but failed to establish for the Board how
2 much of its income was attributable to taxable activities and how, if at all, those activities differ from the
3 activities now at issue. Thus, Appellant has not met its burden of proof in this matter and is liable for the
4 tax assessed.

5 Further, Appellant has not shown that its failure to timely pay the tax due is attributable to
6 reasonable cause; therefore, the penalties imposed may not be abated. A.R.S. § 42-1125(D). Finally,
7 the interest at issue is made a part of the tax by statute and represents a reasonable interest rate on the
8 tax due; therefore, it may not be abated. A.R.S. § 42-1123; *Biles v. Robey*, 43 Ariz. 276, 286, 30 P.2d
9 841 (1934).

10
11 CONCLUSIONS OF LAW

12 1. Appellant has not demonstrated that the Department's assessment is incorrect; therefore,
13 Appellant is liable for the tax assessed. See *Arizona State Tax Commission v. Kieckhefer*, 67 Ariz. 102,
14 191 P.2d 729 (1948).

15 2. Because Appellant has not shown that its failure to timely pay the tax due is attributable to
16 reasonable cause, the penalties imposed may not be abated. A.R.S. § 42-1125(D).

17 3. Because the interest at issue is made a part of the tax by statute and represents a reasonable
18 interest rate on the tax due, it may not be abated. A.R.S. § 42-1123; *Biles v. Robey*, 43 Ariz. 276, 286, 30
19 P.2d 841 (1934).

20 ORDER

21 THEREFORE, IT IS HEREBY ORDERED that the appeal is denied, and the final order of the
22 Department is affirmed.

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24 ...
25 ...

